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Customer Number

Patent  
Case No.: 57893US003

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

First Named Inventor: JOHNSON, MATTHEW B.  
Application No.: 10/824019 Confirmation No.: 5914  
Filed: April 14, 2004  
Title: TRANSFERMAL DRUG DELIVERY DEVICE WITH MULTILAYER BACKING

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**Response to Restriction Requirement And Election of Species**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR § 1.8(a)]**

I hereby certify that this correspondence is being:

- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at 571-273-8300.  
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February 18, 2008

Date

/Chris Johnson/

Signed by: Chris Johnson

Dear Sir:

This is in response to the Office Action dated December 31, 2007. Claims 1-20 are pending. Claims 1-20 were restricted under 35 USC § 121 as follows:

- I. Claims 1-17 are said to be drawn to a transdermal drug delivery device, classified in Class 424, subclass 400;  
II. Claims 18-20 are said to be drawn to a method of drug delivery to a mammal, classified in Class 424, subclass 400;

**Election**

In response, Applicants elect Group I, with traverse.

Reconsideration and withdrawal or modification of the restriction requirement is respectfully requested.

Applicants submit that the Groups I and II claims are so interrelated that a search of one group of claims will reveal art to the other. Moreover, the classification of Groups I and II claims in different classes and subclasses is not necessarily sufficient grounds to require restriction.

Were restriction to be effected between the claims in Groups I and II, a separate examination of the claims in Groups I and II would require substantial duplication of work on the part of the U.S. Patent and Trademark Office. Even though some additional consideration

would be necessary, the scope of analysis of novelty of all the claims of Groups I and II would have to be as rigorous as when only the claims of Group I were being considered by themselves. Clearly, this duplication of effort would not be warranted where these claims of different categories are so interrelated. Further, Applicants submit that for restriction to be effected between the claims in Groups I and II, it would place an undue burden by requiring payment of a separate filing fee for examination of the nonelected claims, as well as the added costs associated with prosecuting two applications and maintaining two patents.

Conclusion

Applicants have elected Group I. Continued prosecution of this application is respectfully requested.

ELECTION OF SPECIES

In response to the Examiner's office action dated December 31, 2007, Applicants provisionally elect the species a copolymer of polypropylene (cf. Example 18).

The claims which read on the elected species are Claims 1-20.

The requirement for election of species is traversed, and reconsideration is respectfully requested. It is felt that a search of the classes appropriate to the elected species and claims would include the Patent Office classes in which the non-elected species and claims would be searched, as each claim group requires.

It is respectfully urged that the claims now pending before the Examiner are in condition for allowance. A notification of allowability is respectfully solicited.

Should the Examiner determine that a telephone interview would be beneficial in resolving any of the issues in this case, the Examiner is invited to telephone the undersigned attorney at the telephone number noted below.

Respectfully submitted,

February 18, 2008

Date

By: /Robert W. Sprague/

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